

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In the Matter of  
THE ARBITRATION

between

ROBERT JORDAN, AS MANAGER OF  
THE DISABILITY SERVICES AND  
ALLIED WORKERS' JOINT BOARD,  
LOCAL 62-32, UNITE HERE!,  
Petitioner,

and

CARLCRAFT KNIT SALES, INC.,  
Respondent.

**DEFAULT JUDGMENT**  
**05 Civ. 5945 (GBD)**

Robert Jordan, as Manager of the Disability Services and Allied Workers' Joint Board, Local 62-32, UNITE HERE! (hereinafter, the "Petitioner") having commenced the within action on June 28, 2005 by filing a Petition to Confirm the Arbitration Award of Marshall L. Rosenberg, dated June 2, 2005 (hereinafter, the "Petition") and Carlcraft Knit Sales, Inc. (hereinafter, the "Respondent") having been duly served on July 1, 2005 with a copy of the Petition and copies of papers in support of the Petition by regular mail and certified mail, return receipt requested and proofs of service having been filed on July 5, 2005 and Respondent having failed to appear, answer or otherwise move with respect to the Petition,

**NOW, THEREFORE**, upon application of the Petitioner and upon reading the annexed Affidavit of Judith Greenspan, Esq. duly sworn the 12<sup>th</sup> day of September 2005 and the Certificate of J. Michael McMahon, Clerk of Court, United States District Court for the Southern District of New York, noting the default of the above named Respondent for failure to appear, answer or otherwise move with respect to the Petition, it is hereby,

**ORDERED AND ADJUDGED**, that the Arbitration Award of Marshall L. Rosenberg, dated June 2, 2005, be confirmed; it is further,

**ORDERED, ADJUDGED AND DECREED**, that Petitioner have Judgment against Respondent on the Award in the principal amount of \$39,375.60 in delinquent contributions together with interest in the amount of \$1,553.45 and costs in the amount of \$250.00, for a total Judgment of \$41,179.05.

Dated: \_\_\_\_\_  
New York, New York

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George B. Daniels  
United States District Court Judge

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Respondent.

**AFFIDAVIT IN SUPPORT  
OF ENTRY OF  
DEFAULT JUDGMENT  
05 Civ. 5945 (GBD)**

STATE OF NEW YORK )  
 ) ss.  
County of New York )

**Judith Greenspan, Esq.**, being duly sworn, deposes and says:

1. I am the Attorney for Robert Jordan, as Manager of the Disability Services and Allied Workers' Joint Board, Local 62-32, UNITE HERE! (hereinafter, the "Petitioner"), am duly admitted to practice law before the Honorable Court and am fully familiar with the prior proceedings had herein.

2. I make this Affidavit pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure and Rule 55.2(b) of the Civil Rules of this Court in support of the Petitioner's Application for Entry of Default Judgment against Carlcraft Knit Sales, Inc. (hereinafter, the "Respondent").

3. This action was commenced on June 28, 2005 by filing a Petition to Confirm the Arbitration Award of Marshall L. Rosenberg, dated June 2, 2005 (hereinafter, the "Petition"), awarding \$39,375.60 in contributions owed to Petitioner together with interest pursuant to the provisions of the Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001 et seq. for the period from April 16, 2005 till such time that payment has been made. A copy of the Petition and supporting documentation is annexed hereto, as **Exhibit A**.

4. This Court has personal jurisdiction over the Respondent in accordance with the provisions of the Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1132(e)(2) which provides in pertinent parts:

Where an action under this subchapter is brought in a district court of the United States, it may be brought in the district where the plan is administered, where the breach took place, or where defendant resides or may be found, and process may be served in any other district where defendant resides or may be found.

Petitioner's sole place of business is 275 7<sup>th</sup> Avenue, New York, New York 10001. Thus, venue is proper in this Court.

5. Respondent was served on July 1, 2005 with a copy of the Petition together with the Notice of Petition and Memorandum of Law by regular mail and certified mail, return receipt No. 7005 0390 0000 6760 3927, addressed to Respondent's business premises at 1000 Wilt Avenue, Ridgefield, New Jersey 07657. Copies of the Affidavits of Service are annexed hereto, as **Exhibit B**. Such service was in accordance with the provisions of the Collective Bargaining Agreement Article 47 Section (e) thereof entered into by the Respondent. A copy of the Collective Bargaining Agreement is annexed hereto, as **Exhibit C**.

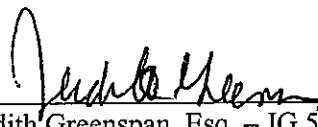
6. Respondent has not appeared, answered or otherwise moved with respect to the Petition.

7. To date, the Respondent has not paid any portion of the contribution debt due to the Petitioner and the outstanding debt remains in the amount of \$39,375.60.

8. This action seeks Judgment for the principal amount of \$39,375.60 in delinquent contributions together with interest at 9% from April 16, 2005 through September 22, 2005, in the amount of \$1,553.45 and costs in the amount of \$250.00, for a total Judgment of \$41,179.05, as shown by the annexed statement, which is justly due and owing and no part of which has been paid except as therein set forth.

9. No previous application for the relief requested herein has been made.

**WHEREFORE**, it is respectfully requested that the Court enter the annexed Default Judgment against Respondent.

  
\_\_\_\_\_  
Judith Greenspan, Esq. - JG 5924

Sworn to, before me, this  
12<sup>th</sup> day of September 2005.

  
\_\_\_\_\_  
MARK SCHWARTZ  
Notary Public, State of New York  
No. 43-4663660  
Qualified in Richmond County  
Commission expires July 31, 2009

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Petitioner,

and

CARLCRAFT KNIT SALES, INC.,  
Respondent.

**AFFIDAVIT IN SUPPORT  
OF REQUEST FOR  
INTEREST AND COSTS  
05 Civ. 5945 (GBD)**

STATE OF NEW YORK )  
 ) ss.  
County of New York )

**Judith Greenspan, Esq.**, being duly sworn, deposes and says as follows:

1. I am the Attorney for Robert Jordan, as Manager of the Disability Services and Allied Workers' Joint Board, Local 62-32, UNITE HERE! (hereinafter, the "Petitioner").

2. I submit this Affidavit in support of Petitioner's Request for Interest and Costs, in connection with their Application for Entry of Default Judgment.

3. In an action to enforce Section 1145 of the Employee Retirement Income Security Act (ERISA), such as the instant action, the Court is required by 29 U.S.C. Section 1132(g)(2) of that Act to award the prevailing plan:

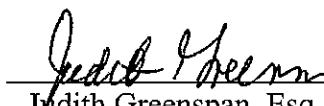
- (A) the unpaid contributions,
- (B) interest on the unpaid contributions,
- (C) an amount equal to the greater of --
  - (i) interest on the unpaid contributions, or
  - (ii) liquidated damages provided for under the Plan...
- (D) reasonable attorney's fees and costs of the action, to be paid by the respondent, and
- (E) such other legal or equitable relief as the court deems appropriate. For purposes of this paragraph, interest on unpaid contributions shall be determined by using the rate provided under the Plan...

4. Annexed hereto, as **Exhibit A**, is a copy of the Arbitration Award, dated June 2, 2005, awarding Petitioner interest at the rate of 9% from April 16, 2005 to date of payment.

5. The amount of interest on the Respondent's outstanding contributions has been calculated by the Petitioner from April 16, 2005 through September 22, 2005 at \$1,553.45.

6. In accordance with this action, Petitioner have incurred costs, which are also recoverable under Section 1132(g)(2); Petitioner's costs for filing this action are \$250.00.

Dated: September 12, 2005  
New York, New York

  
\_\_\_\_\_  
Judith Greenspan, Esq. - JG-5924

Sworn to, before me, this  
12<sup>th</sup> day of September 2005.

  
\_\_\_\_\_  
MARK SCHWARTZ

Notary Public, State of New York  
No. 43-4663660  
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**STATEMENT OF DAMAGES**  
**05 Civ. 5945 (GBD)**

**PRINCIPAL** amount sued for: \$39,375.60

**INTEREST** at 9% from April 16, 2005  
through September 22, 2005 on \$39,375.60  
in delinquent contributions: \$ 1,553.45

**COSTS AND DISBURSEMENTS**

Cost of Purchase of Index No.: \$ 250.00

**TOTAL** (as of September 12, 2005) **\$41,179.05**

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**CLERK'S CERTIFICATE  
05 Civ. 5945 (GBD)**

I, J. Michael McMahon, Clerk of the United States District Court for the Southern District of New York, do hereby certify that the docket entries in the above entitled action indicate that the Petition to Confirm the Arbitration Award of Marshall L. Rosenberg, dated June 2, 2005, was filed on June 28, 2005 and that the Respondent was served a copy by regular mail and certified mail, return receipt requested on July 1, 2005 by service on Carlcraft Knit Sales, Inc., 1000 Wilt Avenue, Ridgefield, New Jersey 07657 and proofs of service having been filed on July 5, 2005.

I further certify that the docket entries indicate that the Respondent did not appear, answer or otherwise move with respect to the Petition. The default of the Respondent is hereby noted.

Dated: September 13, 2005  
New York, New York

*J. Michael McMahon*

Clerk of Court